

S E R V E D

June 20, 2007

FEDERAL MARITIME COMMISSION

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WASHINGTON, D. C.

DOCKET NO. 06-01

**WORLDWIDE RELOCATIONS, INC.; ALL-IN-ONE SHIPPING, INC.;
BOSTON LOGISTICS CORP.; AROUND THE WORLD SHIPPING, INC.;
TRADEWIND CONSULTING, INC.; GLOBAL DIRECT SHIPPING;
MEGAN K. KARPICK (A.K.A. CATHERINE KAISER, KATHRYN KAISER,
CATHERINE KERPICK, MEGAN KAISER AND ALEXANDRIA HUDSON);
MARTIN J. MCKENZIE; PATRICK JOHN COSTADONI; ELIZABETH F. HUDSON;
SHARON FACHLER; AND OREN FACHLER, ET AL. -- POSSIBLE VIOLATIONS OF
SECTIONS 8, 10, AND 19 OF THE SHIPPING ACT OF 1984 AND THE
COMMISSION'S REGULATIONS AT 46 C.F.R. §§ 515.3, 515.21, AND 520.3**

**ORDER DISMISSING RESPONDENTS OREN FACHLER, RONALD EADEN,
ROBERT BACHS, BARBARA DEANE, AND STEVE KULLER**

The Bureau of Enforcement has filed a Motion to Dismiss Respondents Oren Fachler, Ronald Eaden, Robert Bachs, Barbara Deane, and Steve Kuller (Motion to Dismiss). For the reasons stated below, the motion will be granted.

By Order of Investigation and Hearing dated January 11, 2006, the Commission commenced an investigation into the activities of nine corporations (Moving Services, L.L.C.; Worldwide Relocations, Inc.; International Shipping Solutions, Inc.; Dolphin International Shipping, Inc.; All-in-One Shipping, Inc.; Boston Logistics Corp.; Around the World Shipping, Inc.; Tradewind

Consulting, Inc.; and Global Direct Shipping) and fourteen individuals (Sharon Fachler; Oren Fachler; Lucy Norry; Patrick J. Costadoni; Steven Kuller; Megan K. Karpick (a.k.a. Catherine Kaiser, Kathryn Kaiser, Catherine Kerpick, Megan Kaiser, and Alexandria Hudson); Barbara Deane (a.k.a. Barbara Fajardo); Baruch Karpick; Martin J. McKenzie; Joshua S. Morales; Elizabeth F. Hudson; Daniel E. Cuadrado (a.k.a. Daniel Edward); Ronald Eaden; and Robert Bachs) for possible violations of sections 8, 10, and 19 of the Shipping Act of 1984 and the Commission's Regulations at 46 C.F.R. §§ 515.3, 515.21, and 520.3. The Order of Investigation states that "[t]he Commission has received over 250 consumer complaints from shippers alleging that they hired one of nine apparently related household goods moving companies to transport their personal effects and vehicles from various location in the United States to foreign destinations." *Worldwide Relocations, Inc., et al. -- Possible Violations of Sections 8, 10, and 19 of the Shipping Act of 1984 and the Commission's Regulations at 46 C.F.R. §§ 515.3, 515.21, and 520.3*, FMC No. 06-01, 30 S.R.R. 902 (Jan. 11, 2006) (*Worldwide Relocations*).

The shipper complaints include allegations that the company hired to provide the transportation: failed to deliver the cargo and refused to return the pre-paid ocean freight; lost the cargo; charged the shipper for marine insurance but never obtained insurance coverage for the shipment; misled the shipper as to the whereabouts of the cargo; charged the shipper a significantly inflated rate after the cargo was tendered and threatened to withhold the shipment unless the increased freight was paid; or failed to pay the common carrier engaged by the company as another intermediary. In many cases, the shipper was forced to pay another carrier or warehouse a second time in order to have the cargo released.

Id. at 903. The Order of Investigation does not allege that any particular respondent committed any particular act. The Commission ordered the investigation to determine:

Whether the Respondents violated sections 8, 10 and 19 of the Shipping Act of 1984 and the Commission's regulations at 46 C.F.R. Parts 515 and 520 by operating as non-vessel-operating common carriers in the U.S. trades without obtaining licenses from the Commission, without providing proof of financial responsibility, without publishing an electronic tariff, and by failing to establish, observe, and enforce just

and reasonable regulations and practices relating to or connected with receiving, handling, storing, or delivering property.

Id. at 905.

After the Commission issued the Order of Investigation, BOE commenced discovery and engaged in other investigation techniques. With regard to the particular individuals who are the subject of this motion, BOE has learned the following:

1. Oren Fachler. Mr. Fachler admits to being an employee of his brother, Sharon Fachler, at Moving Services for seven months in 2003 and 2004. Sharon Fachler was the sole owner and corporate officer of Moving Services. Oren Fachler currently resides in Israel and was not an owner or investor in Moving Services. A copy of the company's 2004 annual report and Florida Department of State registry information indicating Sharon Fachler as the sole corporate officer is attached to this motion as Exhibit 1.¹
2. Ronald Eaden and Robert Bachs. Each of these names is now believed to be a fictitious identity assumed by one or more individuals associated with Global Direct Shipping for the purpose of conducting the company's unlicensed ocean transportation activities. Other than electronic mail messages allegedly sent by these individuals, no records or documents were obtained in discovery proving there ever was an actual person known by either of these names.
3. Barbara Deane (a.k.a. Barbara Fajardo). Ms. Deane's maiden name is Fajardo and she was first employed by Moving Services in late 2003. Deane's primary job responsibilities with Moving Services were customer service, sales, dispatching, and collections. Deane was subsequently employed in similar capacities by both Worldwide Relocations and Tradewind Consulting after Moving Services ceased operations. Although Deane signed some correspondence as "Executive Manager" during her three week employment with Tradewind Consulting, she never held a corporate officer position or owned any interest or shares of stock issued by any of the corporate entities. A copy of the minutes of the first meeting of incorporators for Tradewind electing Angel Sanchez as the sole corporate officer and shareholder is attached as Exhibit 2.
4. Steve Kuller. Mr. Kuller was named an individual Respondent in this proceeding on information and belief that he served as the Vice President and co-owner of Worldwide Relocations, Inc. Kuller was employed by Moving Services in 2003 before leaving the company to join Worldwide Relocations in September of the same

¹ The exhibits are attached to the Motion to Dismiss.

year. Kuller was a salaried employee at Worldwide and initially served as the company's sales manager. In July 2004, Kuller and the President of Worldwide, Patrick Costadoni, discussed an agreement whereby Kuller would purchase a forty-nine percent (49%) interest in the corporation for a purchase price of \$15,000. A written agreement reflecting these terms was drawn up and executed by the parties on July 28, 2004. Exhibit 3. Although the agreement called for Kuller to execute a promissory note for the sum of \$15,000, payable in 36 months, and Kuller executed the promissory note, he never made payment on the note and did not accept or receive any shares of stock in the corporation. Kuller and Costadoni subsequently executed another agreement to void the original purchase agreement and terminate Kuller's employment with the company. Exhibit 4. Corporate registry documents with the State of Florida were never amended to reflect any change in ownership or the addition of any new corporate officers. The only corporate officers and directors of the corporation throughout the company's existence were Mr. Costadoni and his mother, Lucy Norry. A copy of the corporation's Articles of Incorporation are attached to this motion as Exhibit 5 and a copy of the corporation's 2004 annual report and Florida Department of State registry information is attached as Exhibit 6.

(Motion to Dismiss at 2-4.)

Based on the results of its investigation, BOE asserts that Oren Fachler, Ronald Eaden, Robert Bachs, Barbara Deane (a.k.a. Barbara Fajardo), and Steve Kuller:

either never held a corporate position or ownership interest in any of the named corporate Respondents or [the named respondent] was merely a fictitious identity assumed for the purpose of conducting the company's unlicensed operations. Unlike the situation with the remaining individual Respondents named in the Order of Investigation and Hearing ("the Order"), the information available to BOE does not indicate the individuals subject to this motion personally directed or controlled the activities of their respective corporations or were otherwise personally liable for violations of the Shipping Act.

(Motion to Dismiss at 2.) In other words, the evidence gathered by BOE supports a determination that these respondents have not violated the Shipping Act. Accordingly, BOE moves to dismiss these individuals as respondents.

As BOE acknowledges, the Commission does not have a specific rule that governs a voluntary motion to dismiss. Commission Rule 12 provides that "[i]n proceedings under this part, for situations which are not covered by a specific Commission rule, the Federal Rules of Civil

Procedure will be followed to the extent that they are consistent with sound administrative practice.” 46 C.F.R. § 502.12. The Federal Rules of Civil Procedure govern the voluntary dismissal of an action by a plaintiff. *See* Fed. R. Civ. P. 41(a)(1) (“an action may be dismissed by the plaintiff without order of court (i) by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice); Fed. R. Civ. P. 41(a)(2) (“Except as provided in paragraph (1) of this subdivision of this rule, an action shall not be dismissed at the plaintiff’s instance save upon order of the court and upon such terms and conditions as the court deems proper.”).

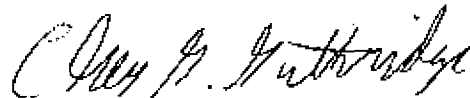
None of the Respondents subject to this motion have filed the equivalent of an answer or a motion for summary judgment. Therefore, if this were district court, BOE would have the right to dismiss this proceeding against the named respondents without filing a motion. Since the Commission does not have a comparable rule, BOE has quite rightly filed a motion seeking this result.

I find that the information gathered by BOE and attached to its motion to dismiss justifies its assertion that evidence does not support a finding that the named respondents have violated the Shipping Act. Therefore, the motion to dismiss should be granted and the respondents identified in the motion be dismissed as respondents.

ORDER

Upon consideration of the Motion to Dismiss Respondents Oren Fachler, Ronald Eaden, Robert Bachs, Barbara Deane, and Steve Kuller filed by the Bureau of Enforcement and the exhibits attached thereto, and for the reasons stated above, it is hereby

ORDERED that the Motion to Dismiss Respondents Oren Fachler, Ronald Eaden, Robert Bachs, Barbara Deane (a.k.a. Barbara Fajardo), and Steve Kuller be **GRANTED**; Oren Fachler, Ronald Eaden, Robert Bachs, Barbara Deane (a.k.a. Barbara Fajardo), and Steve Kuller are dismissed as respondents in this proceeding. In accordance with Rule 227, Rules of Practice and Procedure, 46 C.F.R. § 502.227, this Order dismissing respondents Oren Fachler, Ronald Eaden, Robert Bachs, Barbara Deane (a.k.a. Barbara Fajardo), and Steve Kuller will become final unless it is reviewed by the Commission.



Clay G. Guthridge
Administrative Law Judge